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Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai

Addendum

Mission to Rwanda*, **

Summary

The Special Rapporteur on the rights to freedom of peaceful assembly and of association conducted an official visit to Rwanda from 20 to 27 January 2014 to assess the situation of freedom of peaceful assembly and of association in the country.

Following an introductory section, in chapter II the Special Rapporteur refers to the historical and political background of Rwanda. In chapter III, he identifies issues of concern in relation to measures to prevent and combat genocide.

In chapters IV and V, the Special Rapporteur studies the challenges to the exercise of the rights to freedom of peaceful assembly and of association. In chapter VI, the Special Rapporteur acknowledges the work of the National Commission for Human Rights and makes recommendations, and in chapter VII, he details positive activities of the United Nations in Rwanda, including the Office of the United Nations High Commissioner for Human Rights.

Finally, in chapter IV, the Special Rapporteur formulates his conclusions and recommendations.

* Late submission.

** The summary of the present report is circulated in all official languages. The report itself, contained in the annex to the summary, is circulated in the language of submission only.

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Annex

[*English only*]

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, on his mission to Rwanda (20–27 January 2014)

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I. Introduction

1. The Special Rapporteur on the rights to freedom of peaceful assembly and of association carried out an official visit to Rwanda from 20 to 27 January 2014 at the invitation of the Government. The aim of the visit was to examine the state of promotion and protection of the rights under his mandate.

2. The Special Rapporteur commends Rwanda for being the first country in Africa to extend an invitation to him.

3. The Special Rapporteur visited the cities of Kigali and Huye. In Kigali, he met with the Prime Minister, the Minister of Justice, the Minister of Internal Security, the Minister of Local Government, the Minister of Public Service and Labour, the Minister of Trade and Industry, the Minister of the East African Community, the Permanent Secretary of the Ministry for Foreign Affairs, and the Inspector General of the Rwanda National Police. He also met the Chief Justice, the President of the High Court, the Prosecutor General, the Deputy Speaker of the Parliament, and the Chair of the Parliamentary Committee on Unity, Human Rights and Fight against Genocide of the Chamber of Deputies, and its members. The Special Rapporteur also had meetings with the National Unity and Reconciliation Commission, the Director of the Directorate General of Immigration and Emigration, the Chief Executive Officer of the Rwanda Governance Board, and representatives of the Rwanda Human Rights Commission and the Private Sector Federation. He further met with the representatives of the United Nations country team and diplomatic missions. In Huye, the Special Rapporteur met the Governor of the South Province and the Mayor of Huye. In both cities, he met with representatives of political parties and non-governmental organizations (NGOs).

4. He thanks the Government for its exemplary cooperation before and during the visit. In addition, he expresses his gratitude for the support received from the United Nations Resident Coordinator and his office, the United Nations country team, and from the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Rwanda.

5. In carrying out his visit, the Special Rapporteur was guided by several international legal standards, including the International Covenant on Civil and Political Rights, articles 21 and 22 in particular; and the International Covenant on Economic, Social and Cultural Rights, especially article 8. Rwanda ratified both Conventions without reservations on 16 April 1975. He was also guided by articles 10 and 11 of the African Charter on Human and Peoples' Rights.

6. The Special Rapporteur considers the invitation, support and facilitation of the visit as a sign of the willingness of Rwanda to continue to open up to constructive dialogue. He therefore presents his findings and offers his recommendations in a spirit of constructive engagement, supporting the efforts of Rwanda towards the realization of the rights to freedom of peaceful assembly and of association and the strengthening of its democratic system.

II. Historical and political background

7. For nearly 80 years, the colonial administration manipulated ethnic identities and institutionalized them in government organs.[1] Independence from Belgium in 1962 came in a context of fierce ethnic tensions. Tutsi domination ended and people identified as Hutu ruled the country until the 1994 genocide. That period was marked by rising ethnic conflict and violence that forced hundreds of thousands of Rwandans to seek shelter, primarily in neighbouring countries.[2] In 1987, Rwandans exiled in Uganda, mainly people identified as Tutsis, founded the Rwandan Patriotic Front, an opposition political and military movement. The ethnic tensions were exacerbated in the 1990s by the Front's military attacks on Rwanda, the deliberate State propaganda against all people identified as Tutsis in the country and opposition members identified as Hutu, and the role of the media in spreading unfounded rumours.

8. In 1993, the Government of Rwanda and the Rwandan Patriotic Front signed the Arusha Peace Agreements. Later that same year, the Security Council established a peacekeeping operation in Rwanda, the United Nations Assistance Mission for Rwanda (UNAMIR), to support the peace process, contribute to the security of the city of Kigali, and provide humanitarian assistance.[3] Concerns over the proliferation of arms, the activities of the Interahamwe militia, killings and increased ethnic tension continued throughout the early months of 1994. On 6 April 1994, the deaths of the Presidents of Burundi and Rwanda in a plane crash caused by a rocket attack triggered political massacres and critically deteriorated the ethnic conflict. During the approximately 100-day-long genocide in Rwanda, militia, armed forces and civilians killed 800,000 people in some of the most horrific brutality humankind had seen in the twentieth century. "Rwandans killed Rwandans, brutally decimating the Tutsi population of the country, but also targeting moderate Hutus."[4] The international community failed Rwanda: neither the political will, nor the troops were there to prevent most of the killings.[5]

9. On 18 July 1994, the Rwandan Patriotic Front gained control of Rwanda and declared a unilateral ceasefire. On the next day, a government of national unity was sworn in with Paul Kagame as Vice-President. In 1999, Rwanda held its first local elections, and in 2003, its first post-genocide presidential and legislative elections. Mr. Kagame won the presidential elections that year and was re-elected in 2010. He was still holding that position during the official visit.

10. In the past 20 years since the genocide, Rwanda has reconstructed its social, political and economic portfolios. It has made progress in the areas of good governance, including rule of law and institution-building, and in ensuring stability and security. In addition, it has steadily developed the country's infrastructure, widened access to education and health, and opened its doors to foreign and domestic investment. Furthermore, Rwanda has made significant improvements in the area of housing and access to sanitation, and set agriculture

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[1] Report of the Independent Expert on minority issues, Gay McDougall, Mission to Rwanda (A/HRC/19/56/Add.1), para. 5.

[2] The Rwanda Genocide and the United Nations, outreach programme, available from www.un.org/en/preventgenocide/rwanda/education/rwandagenocide.shtml.

[3] Security Council resolution 872 (1993).

[4] Report of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda (S/1999/1257), p. 3.

[5] "Rwanda genocide 'must leave us always with a sense of bitter regret and abiding sorrow'", remarks made by Secretary-General Kofi Annan at the Memorial Conference on the Rwanda Genocide, New York, 26 March 1994, available from www.un.org/News/Press/docs/2004/sgsm9223.doc.htm.

and environmental protection as one of its priorities. Rwanda is also known today for its commitment to empowering women and to gender equity.

11. However, the armed conflict that had begun in 1990 and culminated with the genocide continues to leave its mark on the historical and geopolitical context of Rwanda. The Special Rapporteur believes that attempts at reconstruction, reconciliation and realization of human rights can only succeed if Rwanda calls for an honest, robust and civil debate, hence the need for an active and unfettered civil society. He calls on the authorities of Rwanda to take an inclusive and holistic approach to the consequences of the conflicts and of genocide, on all sides, including making efforts to shed light on the killings of moderate Hutus and alleged crimes committed by the Rwandan Patriotic Front. Furthermore, the Special Rapporteur invites Rwanda to learn from the Truth and Reconciliation Commission of South Africa that delved into the alleged crimes by the African National Congress despite vociferous opposition.

III. Legal framework to prevent and punish the crime of genocide and its impact on the exercise of the rights to freedom of peaceful assembly and of association

12. In the wake of the 1994 genocide, the post-conflict Government of the Rwandan Patriotic Front built a legal framework to prevent it from ever happening again. The Special Rapporteur paid particular attention to the following legal provisions of the Organic Law 01/2012/OL on instituting the Penal Code. They concern further national legal provisions on penalizing and punishing the crime of genocide.

- Article 116 punishes the crime of negationism and minimization of the genocide against the Tutsis, which is defined as an action to publicly negate, minimize, justify or approve the genocide against the Tutsis, or to hide or destroy its evidence. It gives judges the right to dissolve an association, including political organizations, found guilty of committing this crime. According to article 5 of Law 84/2013, to negate genocide is an act committed in public to state that the killings of 1994 did not amount to genocide, to deliberately misconstrue facts about the genocide, to support a double genocide theory for Rwanda, or to say that the genocide was unplanned. Article 6 of the Law defines the minimization of genocide as the public act of downplaying the gravity or consequences of genocide and/or the methods through which genocide was committed. Finally, article 7 defines justifying genocide as any deliberate act committed in public to glorify, support and/or legitimize genocide.
- Article 136 punishes the crime of sectarianism. Law 47/2001, in article 1, paragraph 2, defines sectarianism as "the use of any speech, written statement or action that divides people, that is likely to spark conflicts among people, or that causes an uprising which might degenerate into strife among people based on discrimination". In the case of an association, including a political party, found guilty of sectarianism with grave consequences on the population, a court may decide under article 6 of the Law to dissolve it and fine it up to RF 20 million (US$ 29,390).
- Article 451 criminalizes the action of spreading false information with intent to create a hostile international opinion against the State of Rwanda. People found guilty of this offence face up to 10 years in prison in peacetime and life imprisonment during wartime.
- Article 462 makes it punishable by 20 years' imprisonment to incite others to conspire to commit violence to undermine the established Government.

- Article 463 defines as inciting insurrection the actions of: spreading rumours, exciting the population against the established government, inciting or attempting to incite citizens against each other or, attempting to alarm the population with intention to cause trouble in the country. A person found guilty of inciting insurrection is liable to a term of imprisonment of 10 to 15 years.
- Articles 468 and 469 define a seditious group as one that, among other unspecified objectives, aims to use violence to undermine or overthrow the established government. These articles impose prison terms of up to 20 years for all individuals taking part in a seditious group caught in a seditious meeting, hold liable to the same penalty the leadership of the group, regardless of whether it was present at the meeting, and foresee imprisonment of up to five years for anyone taking part in such a meeting and caught in the act. In addition, article 470 punishes as an accomplice anyone who knowingly provides help, including the meeting venue, to a seditious group.

13. The Special Rapporteur notes the progress Rwanda has made in meeting the needs of preventing acts of genocide and gross violations of human rights. However, he sees areas for improvement, as certain legal provisions ostensibly meant to prevent genocide also interfere with the full enjoyment of the rights to freedom of peaceful assembly and of association. He expresses concerns over the aforementioned provisions of Organic Law 01/2012/OL and Law 84/2013 on the crime of genocide ideology and other related offences and Law 47/2001 on prevention, suppression and punishment of the crime of discrimination and sectarianism. He considers them overly broad and open to abuse with a view to limiting any opposition, even moderate and peaceful, to the Government.

IV. Challenges to the exercise of the right to freedom of peaceful assembly

A. Legal framework

14. Article 36 of the Constitution of Rwanda guarantees freedom of peaceful assembly. It sets a regime of prior authorization which is only necessary "if the law so requires and solely in the case of assembly in the open air, in a public space or on a public road, to the extent that such is necessary in the interests of public safety, public health or public order".[6]

15. Furthermore, peaceful assemblies are regulated by the following provisions of Law 33/91:

- Article 1 provides for prior written notification of demonstrations on public roads, public assemblies in the open air or in a closed venue, and games, sport competitions, fairs and shows. Religious processions and public social ceremonies are exempted from this requirement. The notification should be made to the Mayor, Prefect or Minister of the Interior if the event takes place in a town, in several towns of the same prefecture, or in several prefectures respectively. The notification period is 30 days by mail, or six days if delivered in person to the authority concerned, prior to the said event.
- Article 5 sets prior authorization requirements for assemblies held at open air venues, on public roads or in a public space in the interests of public safety, tranquillity or health. In case of rejection of the application, the authorities

[6] Available from http://main.pscbs.gov.rw/uploads/CONSTITUTION%20of%20RWANDA.pdf.

concerned must inform the applicant 48 hours before the event is to take place, and justify their decision.

- Article 8 provides for a right to appeal against the denial of permission before a higher administrative authority, which must make a decision within six days. Failure to notify the authorities or to comply with the decision of the authority rejecting the notification is punishable by a maximum of two months' imprisonment and/or a fine of up to RF 100,000 (US$ 150). In addition, if a demonstration of which the authorities have not been notified undermines public safety, tranquillity or health, organizers face a maximum of two months' imprisonment and/or a fine of up to RF 500,000 (US$ 730). In the event of rejection of the notification by the notified authority, the fine increases to up to RF 1 million (US$ 1,475) (art. 9).

16. Article 685 of Organic Law 01/2012/OL increased the penalties set under article 8 of Law 33/91 in case of: (a) failure to notify the competent authority, a term of imprisonment between eight days and six months and/or a fine of RF 100,000 to RF 1 million (US$ 150–1,470); (b) holding a public meeting or demonstration on public ways despite refusal by a competent authority, a term of imprisonment of six months to one year and/or a fine of RF 200,000 to RF 3 million (US$ 290–4,410); (c) failure to notify the competent authority and in the event that the public meeting or demonstration impairs security, order or public health, a term of imprisonment of six months to two years and/or a fine of RF 2 million to RF 5 million (US$ 2,940–7,350); (d) holding a public meeting or demonstration on public ways, despite refusal by a competent authority, which impairs security, order or public health, a term of imprisonment of one to three years and a fine of RF 2 million to RF 5 million (US$ 2,940–7,350).

17. In addition, Organic Law 10/2013/OL governing political organizations and politicians provides that, whenever a political organization plans to hold a public meeting of its members, it must inform the relevant administrative authorities at least five working days prior to the meeting (art. 19). As for demonstrations, the political organization must obtain the authorization of the authorities at least five days before the event (art. 20).

18. The Special Rapporteur finds that the aforementioned legal framework is not conducive to a free and unhindered exercise of the right to freedom of peaceful assembly. He firmly believes that such exercise should not be subject to prior authorization by the authorities, including de facto authorization as stipulated by the above-mentioned provisions. At most, a prior notification requirement is sufficient to facilitate peaceful assemblies and demonstrations and to take measures to protect public safety and order and the rights and freedoms of others. Further spontaneous assemblies and demonstrations should be recognized in law, exempted from prior notification and, therefore, not be sanctioned.

19. Furthermore, the law should contain a clear presumption in favour of holding peaceful assemblies and demonstrations to facilitate the exercise of the right to freedom of peaceful assembly. The Human Rights Council has called upon States to

> promote a safe and enabling environment for individuals and groups to exercise their rights to freedom of peaceful assembly, of expression and of association, including by ensuring that their domestic legislation and procedures relating to the rights to freedom of peaceful assembly, of expression and of association are in conformity with their international human rights obligations and commitments, clearly and

explicitly establish a presumption in favour of the exercise of these rights, and that they are effectively implemented.[7]

20. In the Special Rapporteur's view, there are insufficient guarantees attached to the right to appeal against rejected decisions concerning notification: such appeal should be made before an impartial and independent court. The disproportionate sanctions of Rwanda are also a serious concern as they significantly contribute to dissuading people from holding peaceful assemblies and demonstrations. Finally, the Special Rapporteur stresses that organizers of peaceful assemblies and demonstrations should never be held liable for the unlawful behaviour of others. In this regard, the principle of individual liability of participants is of utmost importance.

B. Practice

21. The Special Rapporteur was informed that, in practice, only peaceful assemblies which the authorities favour are allowed to take place. This includes the commemorative marches organized by Ibuka — Memory and Justice, the NGO which honours the memory of victims of the 1994 genocide and provides support to survivors of the genocide. In the case of those marches, the Special Rapporteur noted that the police protected and facilitated Ibuka's processions, including by rerouting the traffic.

22. However, peaceful protests voicing dissent and criticizing government policies are reportedly not allowed. For instance, on 25 March 2013, law enforcement officials arrested Sylvain Sibomana, Secretary-General of the opposition Unified Democratic Forces (FDU-Inkingi) and Dominique Shyrambere, a fellow party member, outside the trial of Victoire Ingabire, Chair of the same party. Mr. Sibomana was injured in the course of his arrest. The two party members were wearing T-shirts and badges with the inscriptions "democracy and justice" and "free Ingabire". Both men were charged with contempt of public officials, illegal demonstration and inciting insurrection of public disorder. The Primary Court of Nyarugunga sentenced Mr. Sibomana to two years in prison and a fine of RF 1 million (US$ 1,470) and Mr. Shyrambere to five months imprisonment and the same fine.

23. On 23 July 2013, the police arrested 11 members of the Intwarane group, a breakaway Catholic group, for illegally demonstrating as they were marching towards the presidential palace in Kigali. The group intended to deliver a petition to the President, asking him to make a series of reforms.

24. In September 2013, at least 20 students were arrested after they had presented a petition to the Prime Minister protesting against the reduction of State loans to students enrolled in public universities. While most students were later released without charges, four of them were charged with holding an illegal protest and taken to court. The court, however, found them not guilty and ordered their release.

25. The authorities claim that peaceful protests do not occur because there are other avenues to express criticism and solve contentious issues. The Special Rapporteur has taken note of that assessment, but he finds that such avenues are limited and, as illustrated by the aforementioned cases, the fear of being targeted has contributed to individuals and associations refraining from exercising their right to peaceful assembly to voice their grievances.

[7] Resolution 25/38 on the promotion and protection of human rights in the context of peaceful protests, para. 3.

26. It was clear from the meeting with representatives of the police force that law enforcement officials view their role in policing peaceful assemblies solely as an issue of ensuring public order. They have not adopted an approach that would facilitate assemblies as an integral right of every person in Rwanda to be fully protected. The Inspector General of the Police stated that there had been no instance of police misconduct during the policing of assemblies and demonstrations.

27. Law 46/2010 determining the powers, responsibilities, organization and functioning of the Rwanda National Police[8] contains provisions on the use of force and firearms. Article 38 provides that: "A police officer may, where necessary, use a firearm if: (1) he/she has unsuccessfully tried other means of force; (2) he/she is subject to violence or has to assist other persons who are subject to violence when no other means are available; (3) he/she is fighting armed persons and cannot protect persons or property he/she is supposed to protect by any other means; (4) he/she has to arrest notorious criminals or any other armed persons." The Special Rapporteur finds that this provision fails to comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials[9] owing to its overly broad and vague language. According to principle 9,

> Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

He therefore urges the authorities to amend Law 09/2000 to bring it into compliance with the Basic Principles, as called upon by the Human Rights Council in its resolution 25/38.[10]

28. While noting with appreciation the statement of the Minister of Justice, made during a meeting, that the Government was "fine with dissent", the Special Rapporteur wishes to emphasize that peaceful assemblies should not be feared. Rather they should be encouraged for there is value in expressing disagreement and differences peacefully and publicly. Indeed, there is no better gauge of what citizens think than peaceful protests. And it is in the interests of the State to allow public and peaceful assemblies as a "release valve" in order to avoid recourse to other means of dissent and disagreement, including violence.

29. As stated by the Human Rights Council, "everyone must be able to express their grievances or aspirations in a peaceful manner, including through public protests without fear of reprisals or of being intimidated, harassed, injured ... arbitrarily arrested and detained".[11] The Council further stressed that "peaceful protests should not be viewed as a threat ... therefore encouraging all States to engage in an open, inclusive and meaningful dialogue when dealing with peaceful protests and their causes".[12]

30. The undue restrictions on freedom of peaceful assembly also had a negative impact on the enjoyment of freedom of association. Several associations have been prevented from holding general assemblies, a key requirement for forming a political party or an NGO.

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[8] Available from www.rha.gov.rw/fileadmin/user_upload/Documents/Official_Gazette_n%E2%94%AC %E2%96%919_of_28_02_20111_2.pdf.

[9] Available from www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx.

[10] Para. 10.

[11] Resolution 25/38.

[12] Ibid.

In the run-up to the 2010 presidential elections, the Democratic Green Party of Rwanda and FDU-Inkingi were both denied permission to hold their congress meetings.

31. In addition, political activists who express dissenting views can be arrested for holding meetings to recruit members in public spaces. In September 2012, Mr. Sibomana, FDU-Inkingi Secretary-General, was arrested in a bar in Karongi while holding a recruitment meeting. Mr. Sibomana was charged with "inciting insurrection or trouble amongst the population".[13] The High Court in Karongi sentenced him, and Anselme Mutuyimana, a fellow political activist, to six years' imprisonment. The people in the bar listening to Mr. Sibomana were also charged for "concealing an offence or failing to inform security organs of a felony that is being committed"[14] and sentenced to two years' imprisonment.

V. Challenges to the exercise of the right to freedom of association

32. The Constitution guarantees freedom of association under article 35, "which shall not require prior authorization".

A. Political parties

1. Legal framework

33. The process of establishing a political party in Rwanda is long, laborious and far too often, arbitrary. According to article 11 of Organic Law 10/2013/OL, the founders of a new political party must first submit a letter requesting registration to the Rwanda Governance Board, the authority in charge of registering political organizations. The letter must be accompanied by a number of documents, details of which are in article 12. The documents include three copies of the minutes of the general assembly that established the political organization, certified by the notary of the district where the general assembly took place, and three copies of the statutes that prove that the political organization has at least 200 members, with a minimum of five people residing in each of the 30 districts of Rwanda. In practice, this means that a non-registered political organization has to call multiple public meetings across the country and a general assembly as a precondition to comply with registration requirements. That is a serious financial and logistical burden. The Special Rapporteur also notes that public meetings and founding meetings of political organizations are subject to discretional de facto authorization by local authorities. They further potentially expose organizers to a long list of vaguely defined crimes, such as negating and minimizing the genocide, creating divisions and sectarianism, spreading false information, inciting others to conspire to commit violence, inciting insurrection, participating in a seditious meeting, illegally forming or leading a political organization, etc. The Special Rapporteur regrets the obvious dissuasive effects that that legal and political environment has upon on individuals keen on forming opposition political parties.

34. The Special Rapporteur sees as another challenge the criminalization of the "illegal formation or leadership of a political organization" (Organic Law 01/2012/OL, art. 686). Under the law, any person who forms or leads an "illegal" political organization is liable to up to two years imprisonment and a fine of up to RF 2 million (US$ 3,000). Moreover,

[13] Organic Law 01/2012/OL instituting the penal code, chap. I, art. 463.

[14] Ibid., chap. II, art. 570.

anyone who claims to belong to a suspended or dissolved political organization may be sentenced to up to five years' imprisonment and a fine of up to RF 5 million (US$ 7,350).

2. Space for opposition political parties

35. The Special Rapporteur recognizes Rwanda's efforts to rebuild its society and move towards reconciliation following the atrocities committed in its recent history.

36. The Special Rapporteur notes with appreciation that Organic Law 10/2013/OL that governs political organizations and politicians recognizes in article 3 that "political organizations shall be formed and allowed to operate freely" and "be equal before Government institutions".[15] However, he is deeply concerned about the unequal opportunities presented to political parties for the pursuit of their legitimate activities. He observes that there are undue restrictions on political parties, curtailing opportunities for genuine political participation and dialogue. He was informed that Rwanda favoured a political order based on consensus led by the ruling party, which discourages public criticism and dissent. The Organic Law frames the recruitment processes, operations and activities of political parties, which "must constantly reflect the unity of the people of Rwanda".[16]

37. The Special Rapporteur is sensitive to the need to unite Rwandans, but considers that unity must include openness to express legitimate dissent. He believes that ordinary dissent and genocide ideology are divided by a thin boundary in Rwanda. In a country that can dissolve any political organization carrying out divisive acts,[17] the legitimate fights against terrorism and heinous crimes such as genocide stand in a tenuous balance of forced consensus. It also puts any opposition political party keen to compete against the ruling party at risk of falling victim to various laws punishing the crimes of negationism, minimizing genocide, sectarianism, spreading false information, inciting or attempting to incite insurrection, and sedition.

38. At the time of the Special Rapporteur's visit, Rwanda had 11 registered political organizations. Out of those, 10 were part of the National Consultative Forum of Political Organizations. The Forum is provided for in the Constitution of Rwanda and partially funded by the Government and a variety of international donors. The Special Rapporteur notes that it provides a capacity-building platform for partners through training, regular meetings and three-monthly general assemblies. In the 2010 presidential elections, the Rwandan Patriotic Front and eight other Forum members actively supported the Front, while one, the Social Democratic Party of Rwanda, remained independent. The newly-registered eleventh party is the Democratic Green Party of Rwanda (Green Party), an opposition party that had sought registration for almost four years. It was finally registered on 9 August 2013. The delay in registration was reportedly due to technical difficulties encountered by the organization in completing the registration process, an assessment that the Green Party contested. However, the Special Rapporteur expresses serious concern over the process, which he considers was an excessive deferral and a burden on the political party seeking registration, contrary to the spirit of the fundamental right to freely associate.

39. The Special Rapporteur expresses similar concern over the fates of unregistered opposition parties whose leaders have been imprisoned in recent years. He finds it troubling that virtually all the publicly critical political leaders are in jail or in exile. This is the case of the opposition party, FDU-Inkingi, led by Victoire Ingabire. She started operating from

[15] Organic Law 10/2013/OL of 11 July /2013 governing political organizations and politicians, chap. I, art. 3.

[16] Ibid., art. 7.

[17] Ibid., chap. II, sect. 2, art. 21.

Europe in 2007, and unsuccessfully tried to register the party in Rwanda from January 2010 until her arrest on 21 April 2010. During that period, the police summoned her on numerous occasions on account of her public statements and for alleged links with the Democratic Forces for the Liberation of Rwanda. On 14 October 2010, the High Court in Kigali found her guilty of conspiracy to undermine the established Government and of denying the genocide. The latter charge was brought against her for publicly calling for the construction of a memorial site for individuals identified as Hutus reportedly killed during the genocide. On 13 December 2013, the Supreme Court upheld the judgement and sentenced her to 15 years on an additional count of collaborating with armed groups. Sylvain Sibomana and Anselme Mutuyimana, other FDU-Inkingi members, were also sentenced to six years in prison each for spreading rumours and participating in illegal gatherings.

40. Other opposition party leaders have received similar treatment. The president of PS-Imberakuri, Bernard Ntaganda, was arrested weeks before the presidential elections on 24 June 2010 and charged with endangering national security, attempting to organize an illegal demonstration and resorting to actions that divide people. The Supreme Court confirmed his sentence of four years in prison on 27 April 2012.

41. Under Rwandan law, individuals sentenced to prison terms of over six months are banned for life from ever holding leadership positions in a political organization (Organic Law 10/2013/OL, art. 13, item 5), unless they undergo a process of rehabilitation as required in Law 30/2013 of 24 May 2013. The Special Rapporteur also expresses concern at the reported disappearance of Aimable Sibomana Rusanganwa, personal assistant of Mr. Ntaganda, in Kigali on 13 June 2010. He calls on the authorities to shed light on his whereabouts and hold the alleged perpetrators accountable.

42. The Special Rapporteur is mindful of the recent history and reconciliation efforts of Rwanda. However, he considers that resorting to criminalizing peaceful public disagreement inculcates fear, and quashes dissent and pluralism in a way that is adverse to Rwanda and its people. It sends an unacceptable message to Rwandans. This criticism also applies to the Special Rapporteur's dismay at the public comments from the Government of Rwanda which was celebrating the murder of exiled opposition politician Patrick Karegeya in South Africa on 1 January 2014. Twenty years after the genocide, the successful reconstruction of the State of Rwanda should give the Government the confidence that it can and should allow peaceful dissent and criticism.

B. Non-governmental organizations

1. Legal framework

43. The right to freedom of association for NGOs is laid out in laws enacted in 2012.

National non-governmental organizations

44. Law 04/2012 governs the organization and functioning of national NGOs.[18] The Special Rapporteur expresses the following concerns about the Law.

45. Article 15 requires registration for public interest organizations, defined under article 3 (1) as those organizations which "carry out activities in the development of various sectors, including civil society, economy, social welfare, culture, science and human rights". The Rwanda Governance Board is the authority in charge of registering, granting legal personality and monitoring the functioning of national NGOs (art. 16). However, as

[18] Available from www.rcsprwanda.org/IMG/pdf/Official_Gazette_no_15_of_09-04-2012_1_.pdf.

pointed out by the then Special Representative of the Secretary-General on human rights defenders: "[R]egistration should not be compulsory. NGOs should be allowed to exist and carry out activities without having to register if they so wish."[19] In addition, the Special Rapporteur stated that "the right to freedom of association equally protects associations that are not registered".[20]

46. The Special Rapporteur finds it problematic that legal personality is not granted automatically upon submission of NGO documents in support of registration. Article 17 of Law 04/2012 provides that a temporary certificate of registration valid for 12 months is issued to national NGOs. National NGOs must then wait nine months after the issuance of this certificate to apply for legal personality. In that regard, the then Special Representative of the Secretary-General on human rights defenders "encourage[d States] to adopt regimes of 'declaration' or 'notification' whereby an organization is considered a legal entity as soon as it has notified its existence to the relevant administration by providing basic information, including the names and addresses of the founder(s) and the name, address, statutes and purpose of the organization".[21]

47. In addition, the Special Rapporteur finds the registration requirements of Rwanda for national NGOs overly bureaucratic. Under article 18 of Law 04/2012, the applicant for a temporary certificate must provide an application letter addressed to the Rwanda Governance Board, together with authenticated statutes; the head office and full address of the organization; the name of the legal representative of the organization, the name of his/her deputy, their duties, full address, curriculum vitae and judicial records; the minutes of the general assembly which appointed the legal representative of the organization and the signatures of all members that attended such a general assembly meeting.

48. Local NGOs are also required to secure "letters of collaboration" with the authorities in the main district in which they operate. These letters must then be submitted with the application for legal personality. The Special Rapporteur finds that the financial cost, time and energy it takes to obtain these letters constitute a serious drain on the resources of organizations. As stated in the Special Rapporteur's first thematic report, registration procedures should be simple, non-onerous and expeditious.[22]

International non-governmental organizations

49. Law 05/2012 governs the organization and functioning of international NGOs.[23] Under article 6, the Directorate General of Immigration and Emigration is responsible for the registration of international NGOs and the monitoring of their operations.

50. As with national NGOs, the procedure for registration of international NGOs is onerous. Under article 7 of Law 05/2012, international NGOs must submit an authenticated copy of the statutes of the organization; an official document allowing the organization to operate in the country of origin and indicating its geographical establishment throughout the world if any; the nature of the activities in which the organization intends to engage in and an action plan; the budget and its source. Those documents must be presented to the local authorities of every district in which the international NGOs wish to operate. International NGOs must also produce letters of approval from the relevant ministry covering their area of work. The enormous time and energy necessary to put together the registration requirements could be devoted to activities benefiting the community.

[19] A/59/401, para. 82 (a).

[20] A/HRC/20/27, para. 56.

[21] A/59/401, para. 82 (b).

[22] A/HRC/20/27, para. 95.

[23] Available from www.rcsprwanda.org/IMG/pdf/Official_Gazette_no_15_of_09-04-2012_1_.pdf.

51. Under article 11 of Law 05/2012, the registration is valid for up to five years. However, the Special Rapporteur found that it was rare for international NGOs to actually obtain registration for that period. That is because the Directorate General of Immigration and Emigration requires that international NGOs provide evidence of funding for the entire period for which they seek registration. Most funding sources are unable to guarantee funding for multiple years, let alone five years, thus forcing them to seek annual registration.

52. When the registration period expires, international NGOs must renew their registration certificate (Law 05/2012, arts. 11–12). Each district immigration officer must check that the NGO has fulfilled its "objectives". The Special Rapporteur believes that imposing such a renewal procedure unduly restricts the exercise of the right to freedom of association, placing excessive discretion in the hands of the Government. In his opinion, the requirement fails to meet the test of being "necessary in a democratic society" to protect national security, public safety, public order, public health, morals or the rights and freedoms of others, as laid down in article 22, paragraph 2, of the International Covenant on Civil and Political Rights, and recalled in Human Rights Council resolution 24/5.

53. Another issue of concern to the Special Rapporteur is the 20 per cent limit of Rwanda on overhead costs in programmes that are not in the interest of its beneficiaries, as specified under article 18, paragraph 4, of Law 05/2012. Should an international NGO want to spend more than 20 per cent, it must provide justification to the Directorate General of Immigration and Emigration. He finds that that provision unduly interferes with the functioning of international NGOs. As stated previously, "associations should be free to determine their statutes, structure and activities and to make decisions without State interference".[24]

54. The Special Rapporteur is concerned that the reporting requirement for international NGOs is burdensome as they must submit the activity report of the previous year and the plan of action for the following year to the relevant authority.

55. The Special Rapporteur is aware of the disagreement between the Government and the international NGO Human Rights Watch. He calls on the authorities to settle the matter amicably.

Stark contrast with legislation governing the establishment of private companies

56. The contrast between the registration process for national and international NGOs, and that of companies in the private sector, is particularly striking. Companies in the private sector find the process much easier and faster and are subject to far fewer requirements to register.

57. It takes a maximum of six hours for companies to register online. The Rwanda Development Board is in charge of registering private companies. The registration requirements are as follows: an identification card, the name of the company to be registered and its purpose. The company's financial statements are not required. The procedure is free if completed online; otherwise the fees are less than US$ 50. Following registration, a company's only requirements are to observe the laws and to submit their financial accounts. This framework enabling private companies to operate without hindrance is one reason for the positive economic transformation of Rwanda since the genocide.

[24] A/HRC/20/27, para. 97.

58. The Special Rapporteur believes that a similar approach in terms of ease of registration and reporting requirements should apply to the civil society sector. This would yield significant economic, social and political dividends, allowing for innovation and creativity. More importantly, it would strengthen sustainable peace and democracy.

59. The Special Rapporteur raised the issue of the unconducive legal framework for NGOs with the Chair of the Parliamentary Standing Committee on Unity, Human Rights and Fight against Genocide, and its members. He welcomes the statement made by the Chair and some of the members, acknowledging that the legislation governing NGOs can be improved, in particular in relation to registration procedures. He calls on the Chair to lead that important process with a view to bringing the legislation into compliance with international human rights norms and standards governing freedom of association.

2. Practice

Interference with the functioning of non-governmental organizations

60. The Special Rapporteur was informed that while some national organizations were not required to notify local authorities prior to holding their general assemblies, others — particularly the ones more critical of the Government — reported that they had to obtain prior authorization for those meetings. He finds the practice disconcerting, and calls on the authorities to comply with the principle of equity.

61. Many of the interlocutors the Special Rapporteur met highlighted the invasive role of the Rwanda Governance Board in the life of local NGOs and faith-based organizations. According to article 30 of Law 04/2012, the Board is tasked with "supervising" national NGOs, i.e. monitoring whether local NGOs and faith-based organizations conform to article 29 of the same Law in relation to the responsibilities of NGOs. That broad language provides unjustifiable room for the Board to interfere with the internal affairs of local NGOs as the following example demonstrates.

62. The case of the Rwandan League for the Promotion and Defense of Human Rights (LIPRODHOR) was brought to the Special Rapporteur's attention. On 21 July 2013, a group of LIPRODHOR members organized a meeting and voted in a new board, ousting the leadership of the organization known for its independence. The then president, vice-president and executive secretary claimed that they had not been informed that the meeting would be held, as required by the LIPRODHOR internal rules, which provide that elections of a board may only take place during a general assembly. In addition, they claimed that the meeting did not meet quorum requirements. The board takeover also violated article 27 of Law 04/2012, which states that any conflict arising in a local NGO must be resolved by the organization's internal conflict resolution organ set up under article 6. On 24 July, the Rwandan Governance Board, despite being alerted of the situation by the ousted leadership, sent a letter to the organization in which it formally recognized the new board. On the same day, the ousted president of LIPRODHOR legally challenged the voting in of the new board. He subsequently received threats from board officials and from anonymous individuals. On 10 April 2014, the High Court of Nyarugenge postponed the hearing on the case to 15 May 2014.

63. The Special Rapporteur sought to clarify the matter with the Head of the Rwandan Governance Board who denied that his institution had made any intervention in the appointment of the new leaders of LIPRODHOR. The Special Rapporteur nevertheless remains very concerned about the case, which he was told was not an isolated one. Similarly, the Special Rapporteur was informed that the Board had been implicated in determining the leadership of the Rwandan Collective of Leagues and Associations for the Defense of Human Rights.

64. The independence and ability of associations to run their internal affairs without external interference are of paramount importance in the exercise of the right to freedom of association. The Special Rapporteur sees no justification for the Rwandan Governance Board involving itself in leadership wrangles within local NGOs. Resolution of such conflict should be the responsibility of the membership of the organization and ultimately the courts.

65. The Special Rapporteur reiterates that, as a general principle, Government's role in the civil society sector should mirror the role it plays in the private sector, i.e. solely that of registering entities within the sector.

Compulsory development partnership

66. The Special Rapporteur was struck by the clarity of the Government's vision of where it wants the country to be by 2020. This vision of development is largely inclusive and creates various spaces for interaction amongst the different stakeholders.

67. At the local level, interactions take place in the context of the Joint Action Development Forum, established by ministerial instruction No. 04/07 of July 2007.[25] As defined in article 2, the Forum is "a consultative level of information dissemination, promoting cooperation among people or actors in development and social welfare of the population. The Forum aims at coordinating activities of all development actors so as to promote coordination of efforts, efficiency and avoid duplication of efforts".

68. While the Special Rapporteur understands that collaborations under the Joint Action Development Forum have been fruitful, he is concerned that the development partnerships between the Government and local and international NGOs are of a compulsory nature. This is evidenced by the necessity for the aforementioned collaboration letters, action plans that must align with the development objectives of the district, down to the level of activities, and in some cases demands for performance contracts to be concluded between local authorities and NGOs. In fact, the perception of some in Government, but also in the civil society sector, appears to be that NGOs are implementers of governmental policies, or merely service providers that should act at the behest of the Government. The Special Rapporteur notes with satisfaction that since his visit, the Government has decided to end the compulsory financial contributions local and international NGOs had to make to the Forum.

69. In order to protect the autonomy and independence of NGOs, the Special Rapporteur is of the view that any partnership between the Government and civil society should be voluntary rather than compulsory. In the development field, NGOs should be able to determine and operate within their priority areas of concern without interference or direction by authorities, including working on issues that authorities do not consider to be priorities. The power of innovation is enhanced through openness. A multiplicity of interventions and approaches will serve to strengthen the capacity of the sector to respond to the needs of beneficiaries and ultimately, to all Rwandans.

Environment in which non-governmental organizations operate

70. The Special Rapporteur is concerned by the stigmatization of local and international NGOs that has persisted in State-controlled media, and on the part of government officials, especially following the decisions of some donor agencies to channel funding for development through NGOs. He was informed that there was a general perception that national NGOs that receive foreign funding and international NGOs are vehicles for

[25] Available from http://lip.alfa-xp.com/lip/AmategekoDB.aspx?Mode=r&pid=8520&iid=2246.

advancing a foreign — or so-called western — agenda. It is understandable to require transparency between donors and the State with regard to the sectors they are supporting and how much support they are providing. But aside from that, the State should not treat NGOs any differently than it treats the private sector — which is itself a key actor in development.

71. The Special Rapporteur is troubled by the climate of suspicion and self-censorship within civil society. NGOs show little openness among themselves, and do not dare to discuss issues which they deem controversial for fear of retaliation, including the cancellation of visas for foreign staff.

72. The Special Rapporteur was deeply disturbed to learn about the July 2013 murder of Gustave Sharangabo Makonene, coordinator of Transparency International Rwanda's Advocacy and Legal Advice Centre in Rubavu. Mr. Makonene worked to uncover cases of corruption, some of which allegedly involved police officers. A few days before the killing, a police officer in civilian clothes allegedly went to the premises of Transparency International Rwanda and enquired about Mr. Makonene's physical appearance and movements. The Special Rapporteur deplores that at the time of his visit the authorities had made no progress in investigating the case.

73. The Special Rapporteur stresses again that as long as the circumstances of Mr. Makonene's death remain unclear, the case will have a strong chilling effect on the NGO community in Rwanda. He reiterates the recommendation made in his first thematic report that "any association, including unregistered associations, should be allowed to function freely, and their members operate in an enabling and safe environment".[26]

VI. National Commission for Human Rights

74. The Rwanda National Commission for Human Rights is governed by Law 19/2013 which sets out the mission, organization and functioning of the Commission. Under article 5, the Commission is mandated to, inter alia,

> (1) educate and sensitize the population on matters relating to human rights ...; (2) to collaborate with other organs in designing strategies to prevent violations of human rights; (3) to prepare and disseminate reports on the situation of human rights in Rwanda, annually and whenever necessary; (4) to provide views, upon request or at its own initiative on laws, regulations of public organs in force in the country and bills so as to ensure their conformity to fundamental principles of human rights; ... (7) to propose to relevant government authorities measures to be taken to address and punish in accordance with law any violation of human rights.

75. The Special Rapporteur was pleased to learn that, among other activities, the Rwanda National Commission for Human Rights has reportedly followed up on observations made by United Nations treaty bodies and in the context of the universal periodic review; visited detention facilities and police stations; provided legal advice to associations; presented reports to Parliament; and raised awareness on laws.

76. He notes that in 2013 the Rwanda National Commission for Human Rights was reaccredited with "A" status by the International Coordinating Committee of National

[26] A/HRC/20/27, para. 96.

Institutions for the Promotion and Protection of Human Rights.[27] However, he is concerned that the Commission has insufficient human and financial resources to carry out its mission adequately. In addition, he was troubled to learn from several of his interlocutors, including independent civil society organizations, of the little confidence they had in the Commission, stating that they did not see it as an effective partner. They mainly questioned the Commission's independence and lack of a public critical stand on human rights issues.

77. In this regard, the Special Rapporteur echoes the following recommendation of the International Coordinating Committee addressed to the Rwanda National Commission for Human Rights:

> It is critically important to ensure the formalization of a clear, transparent and participatory selection and appointment process of the National Human Rights Institution's decision-making body in relevant legislation, regulations or binding administrative guidelines, as appropriate. A process that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of a National Institution.[28]

78. It is important that the Rwanda National Commission for Human Rights become a robust, highly visible and well-respected institution in Rwanda. It should play a key role in promoting the rights to freedom of peaceful assembly and of association, and monitoring their effective enjoyment by everyone.

VII. Assistance activities of the United Nations

79. In the framework of the Rwanda United Nations Development Assistance Plan 2013–2018, the United Nations and the Government committed to, inter alia, ensuring that "human rights, justice and gender equality [be] promoted and implemented at all levels".[29]

80. The Special Rapporteur commends the One UN Rwanda programme with the support of OHCHR, for developing the following joint programmes:

- Joint programme on access to justice, human rights and peace consolidation, which aims at increasing capacity of key institutions at the central and local levels between 2013 and 2018. To that end, the following key actions, among others, will be taken: (a) support capacity-building of civil society organizations to effectively participate in the preparation of parallel reports on the implementation of international conventions; (b) provide technical and financial support to build the capacity of the Task Force on Treaty Body Reporting for effective and timely reporting (treaty body and universal periodic review) and oversight on the implementation of recommendations; and (c) support capacity-building of the National Commission for Human Rights and relevant stakeholders to develop and implement human rights related policies.
- Joint programme on strengthening civil society organizations for responsive and accountable governance in Rwanda. Under the programme, grants will be provided through the Rwandan Governance Board to civil society organizations to carry out capacity development programmes on strengthening civil society organizations.

[27] Report and recommendations of the session of the Sub-Committee on Accreditation (Geneva, 13-16 May 2013), available from http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Documents/Report%20May%202013-Consolidated-English.pdf.

[28] Ibid., p. 16.

[29] *Rwanda United Nations Development Assistance Plan 2013–2018*, p. 58, available from www.undg.org/docs/13307/RWANDA-UNDAP-REPORT.PDF.

In addition, support will be provided to United Nations Development Programme-Rwandan Governance Board priority areas, i.e. human rights and access to justice, effective citizen engagement in key decision-making processes, media development and accountability. While the Special Rapporteur welcomes the aforementioned grants, he believes that they should not be channelled through the Board in the light of the above-mentioned concerns about the institution. He believes that OHCHR should handle the direct allocation of those grants to civil society organizations.

81. Finally, the Special Rapporteur welcomes the work of OHCHR in the country, in particular the capacity-building and technical assistance activities it has undertaken over the years. This includes the provision of training to judicial officers, legal practitioners and prosecutors on the application of international human rights law in domestic courts, an area that should be further expanded. Similarly, the Special Rapporteur urges OHCHR to continue its work in providing technical support to government institutions and civil society in the context of the implementation of the recommendations made by the Human Rights Council to the Government of Rwanda under the universal periodic review process.

VIII. Conclusion and recommendations

A. Conclusion

82. **The rights to freedom of peaceful assembly and of association are essential for democracy and sustainable peace. They are all the more important in a society deeply traumatized by genocide which is still seeking to heal and reconcile. Those rights accommodate and foster pluralistic views, help ensure that dissent is peaceful, and strengthen democracy's ability to prevent social unrest. While acknowledging the progress that Rwanda has achieved, the Special Rapporteur expresses concern about the prevailing opposition to vigorous debate and free expression of opinions, which makes the current social reconciliation process unstable.**

83. **Despite the vibrancy of the economy of Rwanda and its remarkable progress in developing infrastructure, building institutions and ensuring stability and security, the Special Rapporteur notes with concern the Government's prevailing hostility towards peaceful initiatives by its critics and the existence of a legal framework that silences dissent. He believes that the fear of a new genocide cannot be invoked to impede fundamental freedoms in any society, as they are in fact necessary to prevent conflicts and genocide. He also stresses that a society without room for critical voices speaking freely and peacefully is unsustainable.**

84. **The Special Rapporteur is confident that the Government will see the following recommendations as an opportunity to consolidate the progress of Rwanda towards the realization of the rights to freedom of peaceful assembly and of association. Its efforts would undoubtedly resonate at the regional and international levels, and influence other countries positively.**

85. **In that regard, the Special Rapporteur stands ready to provide technical cooperation to the Government when it implements the following recommendations.**

B. Recommendations

1. General recommendations

86. **The Special Rapporteur calls upon the relevant authorities to:**

(a) Recognize in law and in practice that the rights to freedom of peaceful assembly and of association play a decisive role in the emergence and maintenance of effective democratic systems as they are a channel for dialogue, pluralism, tolerance and broadmindedness, where minority or dissenting views or beliefs are respected;

(b) Ensure a conducive and safe environment for everyone exercising or seeking to exercise his or her rights to freedom of peaceful assembly and of association;

(c) Ensure that no one is criminalized for exercising the rights to freedom of peaceful assembly and of association, nor subject to threats or use of violence, harassment, persecution, intimidation or reprisals;

(d) Release all those arrested because of the exercise of their rights to freedom of peaceful assembly and of association;

(e) Ensure that any restrictions on the rights to freedom of peaceful assembly and of association are prescribed by law, necessary in a democratic society, and proportionate to the aim pursued, and do not harm the principles of pluralism, tolerance and broadmindedness. Any restrictions should be subject to an independent, impartial and prompt judicial review;

(f) Provide individuals exercising their rights to freedom of peaceful assembly and of association with the protection offered by the right to freedom of expression;

(g) Ensure that administrative and law enforcement officials are adequately trained in relation to international human rights norms and standards governing the rights to freedom of peaceful assembly and of association;

(h) Ensure that law enforcement officials who violate the rights to freedom of peaceful assembly and of association be held personally and fully accountable for such violations by an independent and impartial oversight body, and by the courts of law;

(i) Ensure that victims of violations and abuses of the rights to freedom of peaceful assembly and of association have the right to an effective remedy and obtain redress;

(j) Make public ministerial orders pertaining to the rights to freedom of peaceful assembly and of association.

2. Specific recommendations

Legal framework to prevent and punish the crime of genocide

87. **Concerning the legal framework to prevent and punish the crime of genocide, the Special Rapporteur calls on the relevant authorities to amend Law 84/2013, Law 47/2001 and Organic Law 01/2012/OL to provide for more specific definitions of the aforementioned offences so they are not subject to interpretation that could be used to dissuade peaceful dissent or alternate views.**

Right to freedom of peaceful assembly

88. Concerning the right to freedom of peaceful assembly, the Special Rapporteur calls on the relevant authorities to:

(a) Amend Law 33/91 in full consultation with civil society and other relevant stakeholders. In particular to:

- **Adopt a clear presumption in favour of holding peaceful assemblies and demonstrations;**
- **Endorse a prior notification regime for all peaceful assemblies and demonstrations with a view to protecting and facilitating peaceful assemblies and demonstrations;**
- **Recognize and provide for the facilitation of spontaneous peaceful assemblies and demonstrations in law, which should be exempt from notification;**
- **Ensure that restrictions imposed on peaceful assemblies and demonstrations can be appealed against before an impartial and independent court;**
- **Reduce the sanctions for failure to respect legitimate restrictions so as not to dissuade the holding of future peaceful assemblies and demonstrations;**
- **Uphold the principle of individual liability, rather than vicarious liability, of participants;**

(b) Allow, protect and facilitate peaceful assemblies and demonstrations, including those voicing dissent;

(c) Amend Law 09/2000 to ensure that the definition of the use of force by law enforcement officials complies with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Right to freedom of association

89. Concerning political parties, the Special Rapporteur calls on the relevant authorities to:

(a) Amend Law 10/2013/OL governing political organizations and politicians and Organic Law 01/2012/OL on instituting the Penal Code, in full consultation with civil society and other relevant stakeholders, to widen the space in which political parties can freely operate;

(b) Offer all citizens the right and opportunity without any distinctions and without unreasonable restrictions to freely form and register a political party and operate in a pluralistic political sphere;

(c) Ensure that all political opponents are free to participate in the political process, and are not labelled as enemies of the State;

(d) Ensure a speedy registration procedure, as for private companies;

(e) Offer all political parties equal opportunities to pursue their legitimate activities and to treat them equally;

(f) Refrain from interfering with the internal functioning of political parties; and

(g) Shed light on the whereabouts of Aimable Sibomana Rusangwa, and hold the alleged perpetrators accountable.

90. **Concerning NGOs, the Special Rapporteur calls on the relevant authorities to:**

(a) Amend Law 04/2012 and Law 05/2012 in full consultation with civil society and other relevant stakeholders. In particular to:

- **Adopt a regime of declaration or notification whereby an organization is considered a legal entity as soon as it has notified its existence to the relevant authorities;**
- **Ensure that the registration procedure for national and international NGOs is much simpler and faster, as for private companies;**
- **Abolish the requirement of renewal of registration certificates for international NGOs;**
- **Allow unregistered organizations to operate;**
- **Abolish the 20 per cent limit on overhead costs in programmes of international NGOs that are not in the interests of its beneficiaries;**
- **Alleviate the reporting requirements on international NGOs;**

(b) Not interfere with the functioning of NGOs, particularly in relation to the appointment of the leadership of NGOs through the Rwandan Governance Board, whose role should be purely regulatory;

(c) Investigate alleged threats against the former president of LIPRODHOR, and bring the perpetrators to justice;

(d) Ensure that prior notification or authorization is not required for associations to hold private meetings, and that they can hold such meetings without the presence of any government or Rwandan Governance Board officials;

(e) Ensure that any partnerships between Government and civil society are voluntary rather than compulsory;

(f) Make public statements in support of the legitimate work of NGOs, in particular genuinely independent ones;

(g) Complete thorough investigations into the killing of Gustave Sharangabo Makonene, bring the perpetrators to justice, and provide reparation to his relatives.

Rwanda National Human Rights Commission

91. **The Special Rapporteur calls upon the National Human Rights Commission of Rwanda to:**

(a) Become a more robust, highly visible and well-respected institution by:

- **Engaging more with the Government on its responses to legitimate dissent;**
- **Enquiring proactively, and taking public critical stands, on violations of the rights to freedom of peaceful assembly and of association;**
- **Clearly and publicly articulating and disseminating international human rights norms and standards governing the rights to freedom of peaceful assembly and of association;**

- **Engaging further with civil society with a view to addressing their concerns in relation to the exercise of the rights to freedom of peaceful assembly and of association;**
- **Offer training activities to government officials and members of civil society on international human rights norms and standards, including those governing the rights to freedom of peaceful assembly and of association;**

(b) Seize all opportunities for training offered to its members;

(c) Follow up on and monitor the implementation of the recommendations contained in the present report.

Civil society organizations

92. **The Special Rapporteur calls upon civil society organizations to:**

(a) Use every opportunity to participate in decision-making processes;

(b) Seize all opportunities for training offered to its members;

(c) Become more cohesive and strategic in engaging with various stakeholders;

(d) Follow up and monitor the implementation of the recommendations contained in the present report.

International community

93. **The Special Rapporteur calls upon the United Nations, international organizations, donors and other stakeholders to:**

(a) Undertake or continue to undertake advocacy work with relevant authorities concerning respect of the rights to freedom of peaceful assembly and of association;

(b) Further support capacity-building of the relevant authorities, the National Human Rights Commission and civil society organizations;

(c) Follow up on, and monitor, the implementation of the recommendations contained in the present report.